

CHAPTER 9. ENVIRONMENTAL AND OTHER CONTINGENT LIABILITIES

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CHAPTER 9. ENVIRONMENTAL AND OTHER CONTINGENT LIABILITIES**9.1 OVERVIEW.**

- 9.1.1 This chapter describes the accounting policy for recognizing and disclosing environmental liabilities associated with NASA activities and/or ownership of land, facilities, and equipment by NASA as well as with environmental cleanup, known also as environmental restoration, at NASA Centers.
- 9.1.2 Legal action, with a potential negative outcome for NASA, can create a contingent liability that must be recognized in the Agency's financial statements. This chapter describes the accounting policy for recognizing and disclosing the Agency's contingent liabilities.
- 9.1.3 In all cases, recognition of an environmental or other contingent liability shall not be based on the future availability of funds. All liabilities meeting the requirements described in this chapter will be properly recorded in the system of record and reported to all concerned parties as set out in this chapter.

9.2 POLICIES.

- 9.2.1 Classification of Contingent Liabilities: Probable, Reasonably Possible, and Remote.
 - A. Amounts classified as "Probable" and measurable are recognized in NASA's integrated accounting systems and reported on the consolidated balance sheet.
 - B. Amounts reported as "Reasonably Possible" are disclosed in the footnotes to the financial statements. A contingent liability should be disclosed in the notes to the financial statements if any of the conditions for liability recognition (probable and measurable) are not met and there is a reasonable possibility that a loss or additional loss may have been incurred. Disclosure should include the nature of the contingency and an estimate of the possible liability, an estimate of the range of the possible liability, or a statement that such an estimate cannot be made. Amounts that are probable, but not measurable, are also disclosed in the footnotes.
 - C. Amounts reported as "Remote" are not included in the reports.
- 9.2.2 Criteria for Recognition of a Contingent Liability (SFFAS No. 5). A contingent liability should be recognized and recorded in NASA's general ledger when all of these three conditions are met:
 - A. A past event or exchange transaction has occurred (e.g., a Federal entity has breached a contract with a non- Federal entity).
 - B. A future outflow or other sacrifice of resources is probable (e.g., the non-Federal entity has filed a legal claim against a Federal entity for breach of

contract and the Federal entity's management believes the claim is more likely than not to be settled in favor of the claimant).

- C. The future outflow of resources is measurable (e.g., the Federal entity's management determines an estimated settlement amount). The estimated liability may be a specific amount or a range of amounts. If some amount within the range is a better estimate than any other amount within the range, that amount is recognized. If no amount within the range is a better estimate than any other amount, the minimum amount in the range is recognized (posted to the general ledger) and the range and a description of the contingency should be disclosed in the notes to the financial statements.

- 9.2.3 Criteria for Determining Environmental Cleanup Costs. Key factors must be considered in determining whether a future outflow of resources from a Federal agency for environmental cleanup is probable. A detailed explanation of these factors can be found in Federal Financial Accounting and Auditing, Technical Release 2, "Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government." (Accounting and Auditing Policy) The factors are:

- A. Likely Contamination
- B. Government Related and Legally Liable
- C. Government Acknowledged Financial Responsibility
- D. Monies Appropriated/Transaction Occurred
- E. No Known Remediation Technology Exists

- 9.2.4 Liability Cost Estimates.

- A. Liability cost estimates may be prepared at the Center or other organizational level. Cost estimates prepared for this purpose shall consider the anticipated costs of the level of effort required to cleanup (i.e., remove, contain, or dispose of) hazardous waste, or contamination resulting from past transactions in accordance with applicable Federal, state, and local requirements. Cost estimates shall be revised when there is evidence that significant changes in the cost estimates have occurred. These liability cost estimates should be reviewed as required in section 9.4.1 of this Volume.
- B. Liability cost estimates are subject to audit. The preparation of cost estimates may involve the application of specialized tools, methods, accumulation and study of historical costs, and/or the conduct of technical analyses. Organizations that prepare cost estimates must retain adequate documentation to identify data sources, estimating methods, and rationale used. Documentation of management reviews must also be

retained. Any estimate produced must be based on site-specific information, engineering estimates, and/or validated cost models.

- C. Liability cost estimates should be offset by estimated cash proceeds only when the proceeds are permitted to be used by the organization that funds the cleanup costs.

9.2.5 Liability for Cleanup of General PP&E.

- A. The total cleanup costs shall be estimated when the associated PP&E is placed in service. The estimated cost shall be based on the current cleanup cost and shall be revised periodically to account for material changes such as changes in regulations, plan, and/or technology.
- B. Liability for cleanup costs related to the operation of general PP&E shall be recognized in a systematic and rational manner based on use of the physical capacity of the associated PP&E or over the estimated useful life of the associated PP&E. This allocation of the total estimated cleanup costs over the use of the physical capacity or estimated useful life of the PP&E also results in the periodic recognition of the expense associated with cleanup liability.
- C. Recognition of the expense and accumulation of the cleanup liability shall begin on the date that the PP&E is placed in service, continue each period that operation continues, and completed when the PP&E ceases operation. As re-estimates are made, the cumulative effect of changes in total estimated cleanup costs related to current and past operations shall be recognized as expense and the liability shall be adjusted in the period of change in estimate.
- D. Payments of cleanup costs shall be recognized as a reduction in the liability for cleanup costs. These include the cost of PP&E or other assets acquired for use in cleanup activities.

9.2.6 Liability for Cleanup of Stewardship PP&E.

- A. The total estimated cleanup costs associated with stewardship PP&E shall be recognized as a liability and expense in the period that the stewardship asset is placed in service. The liability shall be adjusted when the estimated total cleanup costs are re-estimated as described in section 9.2.5.A above.
- B. As cleanup costs are paid, payment shall be recognized as a reduction in the liability for cleanup costs. These include the cost of PP&E or other assets acquired for use in cleanup activities.

9.2.7 Recording and Reporting Liability Cost.

- A. Environmental Liabilities.

1. During the year, NASA's environmental engineers and scientists may be alerted to new information that may result in a change to existing (recorded) liabilities or a new, previously unrecorded liability. That information is processed in accordance with guidance described in the NASA Environmental Restoration Handbook which provides guidance used to address contamination in conformance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (Pub. L. 96-510, as amended) and the Resource Conservation and Recovery Act (RCRA) of 1976 (Pub. L. 94-580, as amended), and other applicable laws.
 2. Each fiscal year, the Office of Infrastructure and Administration, Headquarters Environmental Management Division (EMD), issues a data request to all the Center Environmental Management Office's (CEMOs) for an estimate of potential environmental liabilities. The estimate is derived by each Center utilizing the Integrated Data Evaluation and Analysis Library (IDEAL) or User Defined Estimates (UDEs). The IDEAL System creates reports for each individual project. IDEAL generated reports contain updated assumptions made during the year for the project and form a basis for any accrued liability.
 3. The environmental liability estimates are summarized and submitted to the Agency Office of Chief Financial Officer (OCFO) for review and approval. The Center Office of the Chief Financial Officer (COCFO) is responsible for posting the adjustment to the Agency integrated accounting system. The new balance is reported on the Trial Balance prior to the generation of the annual Performance and Accountability Report (PAR).
 4. The CEMOs are the official depository for all records, both electronic and hardcopy, which support estimates for environmental liabilities. Summarized data submitted through the CEMOs to the COCFO for recording and disclosure should be supported by the official records.
- B. Other Contingent Liabilities.**
1. At the close of the year, the Office of Chief Counsel (OCC) at each Center provides, during the fourth quarter of the fiscal year, information relating to all pending or threatened litigation, claims, and assessments, including cases to be paid from the Judgment Fund against NASA to the Office of the General Counsel (OGC) at NASA Headquarters. (This information is provided at the request of the Center CFO.) The OGC consolidates the information received from all Center OCCs and OGC's own information regarding any Headquarters-level litigation, claims, and assessments into a single report and provide this report to the Agency OCFO. Data is due to the Agency OCFO by September 30.

2. The data collected, is summarized into three categories: Probable, Reasonably Possible, and Remote. Probable includes amounts where there is more than a 50 percent chance of a payment being due. Reasonably Possible is when there is less than a 50 percent chance and Remote is when there is little or no chance of a payment being required in the future.
3. A summary of commitments and contingencies is reported annually by each COCFO and included as a line item or footnote to Federal Agencies' Centralized Trial-Balance System (FACTS I) and NASA's annual PAR. This data reflects NASA's position at the end of the fiscal year. The data includes all Agency financial commitments and contingencies stated at the maximum limit of risk.
4. Detailed Center reporting instructions are in Chapter 7, "Report on Summary of Commitments and Contingencies," of Financial Management Requirements (FMR), Volume 8, *External Reporting*. Three categories of probability shall be identified in the transmittal: Probable, Reasonably Possible, and Remote.

C. Materiality.

1. The recognition and disclosure of liability cost estimates in financial statements is subject to materiality criterion. Statement of Federal Financial Accounting Standards No. 1, Accounting for Selected Assets and Liabilities states, "Materiality depends on the degree to which omitting or misstating information about an item makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or the misstatement."
2. Materiality has both quantitative and qualitative aspects. Even though quantitatively immaterial, certain types of misstatements could have a material impact and warrant disclosure in the financial statements for qualitative reasons.
3. The determination of materiality requires the application of professional judgment. The determination of materiality for any liability estimate will be made based on the specific facts of the case. Detailed records will be maintained to support all materiality decisions.
4. Liability estimates that are material shall be recorded in the accounting system and reported in financial statements as of the report date.

9.2.8 External Reporting. For external reporting requirements associated with environmental and other contingent liabilities, please refer to FMR, Volume 8, *External Reporting*.

- 9.2.9 Continuous Monitoring Program (CMP). For detailed verification, reconciliation, and validation of unfunded environmental liabilities, please refer to the specific control activities described in the NASA Continuous Monitoring Program.

9.3 AUTHORITIES AND REFERENCES.

- 9.3.1 Environmental and other contingent liabilities policies are developed in accordance with the following references.
- A. Treasury Financial Manual, Volume I, Part 2, Chapter 4700, (Agency Reporting Requirements)
 - B. Treasury Financial Manual, Volume I, Part 6, Chapter 3100, "Certifying Payments and Recording Corresponding Intragovernmental Receivables"
 - C. Federal Agencies' Centralized Trial-Balance System (FACTS I)
 - D. Department of Treasury, Financial Management Service, Federal Intragovernmental Transactions Accounting Policies Guide, "Agency Reporting Requirements"
 - E. Statement of Federal Financial Accounting Standard (SFFAS), No. 1, Accounting for Selected Assets and Liabilities, March 1993
 - F. Statement of Federal Financial Accounting Standard (SFFAS), No. 5, Accounting for Liabilities of the Federal Government Related to Environmental Cleanup, September 1995
 - G. Statement of Federal Financial Accounting Standard (SFFAS), No. 12, Recognition Of Contingent Liabilities Arising From Litigation, December 1998
 - H. Statement of Federal Financial Accounting Standard (SFFAS), No. 6, Accounting for Property, Plant, and Equipment Related to Environmental Cleanup Costs, June 1996
 - I. OMB Bulletin No. 01-02, Audit Requirements for Federal Financial Statements, October 16, 2000
 - J. OMB Circular No. A-136, Financial Reporting Requirements
 - K. United States Standard General Ledger (USSGL)
 - L. Accounting and Auditing Policy Committee, Technical Release 2, "Determining Probable And Reasonably Estimable For Environmental Liabilities Guidance," March 15, 1998
 - M. American Institute of Certified Public Accountants (AICPA), Statement of Position 96-1, "Environmental Remediation Liabilities" October 10, 1996

N. NPD 8730.5, "NASA Quality Assurance Program Policy"

O. Technical Bulletin 2006-1, "Recognition and Measurement of Asbestos-Related Cleanup Costs"

9.4 ROLES AND RESPONSIBILITIES.

9.4.1 Joint Review Team (JRT).

A. A joint review will be conducted to validate the Unfunded Environmental Liability (UEL) estimate and reconcile year to year changes by project. The review will determine if the estimate is reasonable and whether documentation exists to support the current estimate and the reconciliation of changes in estimates. The review will be conducted on site at each NASA Center.

B. The following offices will participate in the joint review:

1. Headquarters Environmental Management Division (EMD)
2. Agency Office of Chief Financial Officer (OCFO)
3. Center Environmental Management Office (CEMO)
4. Center Office of the Chief Financial Officer (Center COCFO)

9.4.2 Center Environmental Management Offices (CEMOs). CEMOs are responsible for:

- A. Planning, budgeting, and management of contractual effort for the implementation of restoration projects to reduce NASA's environmental liability.
- B. Estimating, documenting, and processing changes to environmental liability estimates in IDEAL. CEMOs are also responsible for creating UDEs of environmental liabilities outside of IDEAL and uploading it to the IDEAL for review and documentation. Documentation supporting the restoration process and the environmental liability estimates in IDEAL may include but are not limited to the following:
1. Engineering assumptions including modifications and changes due to new technology.
 2. Experience and professional judgment used to arrive at an estimate for a restoration project.
 3. Preliminary assessments, Sampling Reports.
 4. Remedial Investigations, RCRA, Facility Investigations.
 5. Feasibility Studies and/or Corrective Measures Studies.

6. Record of Decision.
 7. Remedial design.
 8. Contractor Quote.
 9. Determinations and/or Orders from regulators.
 10. Input into the Note field containing reasons for assumptions.
- C. When there is a change from the previous estimate of an environmental project, the CEMO shall be responsible for documenting the reasons for the change in IDEAL.
- D. CEMOs shall be responsible for participating in the review of environmental liability estimates with the Joint Review Team during annual updates. Additional updates of environmental project estimates will occur for material changes due to significant events such as:
1. New probable and measurable sites identified.
 2. Existing sites removed from environmental liability estimate, if fully funded or completed.
 3. Liability estimate changes for any reason including the following:
 - a. New information about the site increases project scope;
 - b. Unexpected changes in remediation system performance;
 - c. Schedule changes;
 - d. New or revised regulation issued that significantly affects estimates;
 - e. Regulatory action that significantly changes site cleanup requirements; and
 - f. Major event cause changes to site condition (natural disaster, accident or incident).
- E. Following regulatory criteria, understanding market conditions as they affect liability estimates, developing and reviewing lifecycle cost to complete, and the funding profile for the environmental liabilities. The CEMOs shall have the authority to delegate these responsibilities to the respective Restoration Project Managers (RPMs).

9.4.3 Headquarters Environmental Management Division (EMD). Headquarters EMD is responsible for managing the Environmental Compliance and Restoration Program and providing guidance on NASA environmental liability policy to the CEMOs. Headquarters EMD is also responsible for:

- A. Initiating the annual process to update the environmental liability estimates;
- B. Providing initial review of environmental liability estimates for completeness;
- C. Providing management review for reasonableness and accuracy through EMD Advocate participation on the Joint Review Team;
- D. Coordinating with NASA's Office of the Chief Financial Officer (OCFO) External Reporting Branch to finalize and record the environmental liability estimate and footnote disclosures; and
- E. Managing, providing training for and supporting the IDEAL system.

9.4.4 Center Office of the Chief Financial Officer (COCFO). COCFO shall participate in the joint review of environmental liability estimates by CEMOs. In coordination with the Joint Review Team, the COCFO shall review estimates for environmental restoration projects. The COCFO shall record the approved environmental liability estimates in NASA's integrated accounting system.

9.4.5 Agency OCFO. Agency OCFO shall establish financial accounting policy for environmental liability estimates and provide guidance and clarification on policies to the NASA Centers. Agency OCFO shall participate in the joint review of the environmental liability estimates and notify COCFOs to record the environmental liability estimates in the Agency integrated accounting system.

9.5 DEFINITIONS.

9.5.1 Liability. Liability is a future outflow or other sacrifice of resources as a result of past transactions or events.

9.5.2 Contingency. Contingency is an existing condition, situation, or set of circumstances involving uncertainty as to possible gain or loss to an entity which will ultimately be resolved when one or more future events occur or fail to occur.

9.5.3 Contingent Liabilities. Contingent Liabilities (USSGL 2920) represents the amount that is recognized as a result of a past event where a future outflow or other sacrifice of resource is probable and measurable.

9.5.4 Environmental Liability. Environmental Liability should be recognized when there is a probable and measurable future outflow of resources as of the financial reporting date for environmental cleanup costs resulting from past transactions or events.

9.5.5 Estimated Cleanup Cost Liability. Estimated Cleanup Cost Liability (USSGL 2995) represents the estimated liability for projected future cleanup costs (for

which funding has not been appropriated) associated with removing, containing, and/or disposing of (1) contamination or hazardous waste from property, or (2) material and/or property consisting of hazardous waste or other environmentally regulated substances at permanent closure, temporary closure or shutdown of the associated property, plant, and equipment.

- 9.5.6 Liability Recognition. Recognized Liability means the formal recording or incorporating of a liability amount into the financial statements of the Agency. (Source: Federal Accounting Standards Advisory Board (FASAB) Consolidated Glossary).
- 9.5.7 Liability Disclosure. Disclosed Liability means the reporting of a liability in the notes that are an integral part of the financial statements. (Source: FASAB Consolidated Glossary).
- 9.5.8 Probable. Probable is defined as that which can reasonably be expected or believed to be more likely than not on the basis of available evidence or logic and includes amounts where there is a more than 50 percent chance of payment being made. The probability of a future outflow or other sacrifice of resources is assessed on the basis of current facts and circumstances. These current facts and circumstances include the law that provides general authority for Federal entity operations and specific budget authority to fund programs.
- 9.5.9 Reasonably Possible. Reasonably Possible means the chance of the future confirming event or events occurring is more than remote but less than probable.
- 9.5.10 Remote. Remote means the chance of the future event or events occurring is slight.
- 9.5.11 EMD Advocate. Headquarters individual or environmental specialist assigned with oversight responsibility for Center environmental cleanup projects.